

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of
Amendment of the Commission's
Rules to Establish New Personal
Communications Services

GEN Docket No. 90-314
PP-16

**PETITION FOR PARTIAL RECONSIDERATION
OF THIRD REPORT AND ORDER**

Personal Communications Network Services of New York, Inc. ("PCNS-NY"), by its undersigned counsel, hereby petitions for partial reconsideration of the Federal Communications Commission's ("FCC's" or "Commission's") Third Report and Order in the above-captioned docket. In Paragraph 123 of the Third Report and Order, the Commission summarizes and quotes the initial comments filed by Cox Enterprises, Inc. ("Cox") on PCNS-NY's pioneer's preference request. Cox's comments on PCNS-NY's request for a pioneer's preference were formally withdrawn by Cox on March 17, 1992 in a Request for Partial Dismissal of Opposition in which Cox also notified the Commission

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that it took no position on the merits of PCNS-NY's request. Cox's Request for Partial Dismissal of Opposition was ignored by the Commission in the Third Report and Order.

Following release of the Third Report and Order, PCNS-NY's counsel advised the Commission's staff that the FCC had failed to consider or recognize Cox's Request for Partial Dismissal of Opposition in the Third Report and Order. PCNS-NY's counsel requested correction of the record through issuance of an erratum. On March 14, 1994, the Commission issued an erratum (the "Erratum") that did not eliminate Cox's substantive comments on PCNS-NY's pioneer's preference request but rather merely modified Footnote 129 of the Third Report and Order to note Cox's Request for Partial Dismissal of Opposition. The Erratum did not redact or eliminate the reference to or quotation of Cox's comments which despite Cox's request remain a part of the record and are reiterated in the Third Report and Order. Following issuance of the Erratum, PCNS-NY's counsel requested issuance of a second erratum to eliminate the Commission's summation and quotation of Cox's comments in Paragraph 123 and to prevent perpetuation of an inaccurate characterization of the record. This request was denied verbally by the FCC's staff on March 25, 1994.

To ensure the accuracy of the record and the integrity of the Commission's analysis of each pioneer's preference request, PCNS-NY hereby requests that the Commission modify the Third

Report and Order on reconsideration to eliminate in its entirety the reference to and quotation of Cox's substantive comments on PCNS-NY's pioneer's preference request. The Erratum issued by the Commission on March 14, 1994 does not correct the record. The Erratum merely references Cox's request in a footnote. What the Commission has accomplished through this Erratum is merely to make Cox's request a matter of record but not to honor it.

PCNS-NY's reputation as a legitimate and serious experimenter with PCS technologies is directly undermined by the continued reference in Paragraph 123 of the Third Report and Order to Cox's initial position on PCNS-NY's pioneer's preference request that upon a correct examination of the record was withdrawn. If the Third Report and Order is not adequately corrected, PCNS-NY will continue to be prejudiced and its experimental record with PCS unjustly questioned. PCNS-NY has spent millions of dollars in experimenting with PCS. The value of this is quickly swept away by retention without cause of a single unwarranted sentence in the Third Report and Order.

To adequately correct the record, all references to Cox's comments on PCNS-NY's pioneer's preference request must be eliminated by striking the first sentence in Paragraph 123 and striking the last line in Paragraph 124. Accordingly, PCNS-NY hereby requests that the Commission correct the record on reconsideration and honor Cox's request to dismiss its comments.

Without this correction and elimination of all references to Cox's comments on PCNS-NY's pioneer's preference request, the Third Report and Order will remain grossly inaccurate and unfairly distort the record of PCNS-NY.

Respectfully submitted,

A handwritten signature in cursive script, reading "Shelley L. Spencer", followed by a long horizontal flourish line.

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